UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,378	01/30/2004	Jeanet Harvej	891.0002.U1(US)	7896

29683 7590 12/16/2008

HARRINGTON & SMITH, PC
4 RESEARCH DRIVE, Suite 202
SHELTON, CT 06484-6212

EXAMINER	
HOLLIDAY, JAIME MICHELE	
ART UNIT	**PAPER NUMBER**
2617	

MAIL DATE	DELIVERY MODE
12/16/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/769,378	HARVEJ ET AL.	
	Examiner	Art Unit	
	JAIME M. HOLLIDAY	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 February 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Response to Arguments

Applicant's arguments with respect to claims 1-4, 10, 11, 13 and 14 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed February 1, 2008, with respect to claims 5-9, 12, 15 and 16 have been fully considered but they are not persuasive.

Applicants basically argue that Morishima does not show a cursor being used “to select part of the audio information,” or a part of a melody or ringtone. Examiner respectfully disagrees, because Shanahan discloses editing or sampling a portion of a desired, reading on "allowing the user to select part of the audio information." The Morishima reference is incorporated to overcome the limitation of "a cursor" used for selecting, as cited in the previous Office Action. Both references discuss selection, and Morishima is used to modify Shanahan, in order to teach a particular method of selection of audio information.

Applicants further argue that Osman does not describe or suggest using a “cursor to select part of audio information” available, and a part of a voice memo is not selected. Examiner respectfully disagrees, because as discussed above, the combination of Morishima and Shanahan teaches the feature of a “cursor to select part of audio information.” The Osman reference is incorporated to overcome the limitations of "starting point” and “ending point.” Osman clearly teaches using a key to start a recording and pressing another key to end that recording (col. 4 lines 22-32).

Applicants also argue that the Patsiokas reference is used in error since the provisional applications that are relied upon to claim benefit of an earlier filing date do

not include the portion of the Patsiokas reference cited in the previous Office Action Examiner agrees that the cited portion is not included in the provisional applications in its entirety. However, Examine respectfully disagrees that the Patsiokas reference was used in error, since the specifications of the provisional application reasonably suggest the subject matter of the cited portion of reference. Both specifications teach a display and measuring memory in terms of time (i.e. hours), therefore Examiner maintains that the cited portion of the reference is supported by the provisional applications.

Therefore, in view of the preceding arguments, Examiner maintains previous rejections, with regards to claims 5-9, 12, 15 and 16.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. **Claims 1, 3, 4 and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Shanahan (US 6,496,692 B1)** in view of **Skorko (US 6,560,466 B1)**, and in further view of **Donaldson et al. (US 7,272,232 B1)**.

Consider **claim 1**, Shanahan clearly shows and discloses method (software system for performing the steps of claim 1 in a mobile terminal) of attracting the attention of a user of a mobile terminal, the method comprising the mobile terminal receiving audio information (a user may choose certain information, such as an audio sample of a popular song that is available from source **50** and transferred to programmer **30**. The programmer may be embedded within programmable device **20**; editing may be accomplished by using an application program with the programmer or by using known software with computer **60** [col. 1 lines 55-57, col. 3 lines 19-40, col. 8 lines 60-67, col. 9 lines 25-40]); providing the audio information to the user (A user may customize user-defined information (audio track) by performing various editing procedures, and he or she may be given the option to review the piece to ensure it is acceptable [col. 9 lines 25-40]); while providing the audio information to the user, receiving selections from selecting means of the mobile terminal, the selections identifying a selected part of the audio information (a user may customize user-defined information, such as finding an audio track and editing or sampling a portion of the desired segment [fig. 8, fig. 9, col. 9 lines 5-42]); mobile terminal subsequently attracting the attention of the user by playing the selected part of the audio information (A user may wish to sample a few bars of a popular song

and send it along as signature information; A user may program the device so that certain signature files are played in response to receiving a characteristic indicative of a caller [col. 7 lines 60-65, col. 9 lines 30-32]).

However, Shanahan fails to specifically disclose that the volume at which the signature file is played is dependent on the proximity of the user to the device.

In the same field of endeavor, Skorko clearly shows and discloses volume of the playback depending on the proximity of the user to the mobile terminal (a wireless communication handset with a sensor and detection circuitry to detect user proximity to the handset; when a user comes into close proximity of the sensor, the detection circuitry signals the control unit to lower the ring volume [abstract, col. 1 lines 55-1]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the proximity of a user to a handset to lower the ring volume as taught by Skorko in the apparatus of Shanahan, in order to customize the device to suit the user (Shanahan; abstract).

However, Shanahan, as modified by Skorko, fails to specifically disclose that the volume is adjusted based on the user being provided with audio.

In the same field of endeavor, Donaldson et al. clearly show and disclose volume of the playback depending on the proximity of the user to the mobile terminal, wherein the proximity is determined by whether other audio information is currently being provided to the user (audio sources are sensed and combined

with the level of each source subject to adjustment by an attenuator/amplifier; if source A is a high priority source (e.g. a telephone ring or other alert tone) and source B is a lower priority source (e.g. a music program) then the sound management system may lower the volume on source B, combine with source A and output the result.; the sound management system is integrated with a palm sized handheld computer system [col. 1 line 60- col. 2 line 6, col. 2 lines 33-62)], wherein the volume of the ring tone is adjusted accordingly when the device is playing music.)

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to adjust the volume of a telephone ring based on priority and if the device is currently being used to play music as taught by Donaldson et al. in the apparatus of Shanahan, as modified by Skorko, in order to customize the device to suit the user (Shanahan; abstract).

Consider **claim 3**, the combination of Shanahan and Skorko, as modified by Donaldson et al., clearly shows and discloses the claimed invention **as applied to claim 1 above**, and in addition, Shanahan further discloses providing step is performed by a signal source transmitting the audio information to the mobile terminal (user-defined information may be provided to the device from the source via link **32** and computer **30** [col. 3 lines 19-40, col. 8 lines 60-67, col. 9 lines 15-27]).

Consider **claim 4**, the combination of Shanahan and Skorko, as modified by Donaldson et al., clearly shows and discloses the claimed invention **as**

applied to claim 1 above, and in addition, Shanahan further discloses mobile terminal is a mobile telephone, and wherein the attracting step comprises the mobile telephone receiving an incoming telephone call (a user may program the device so that certain signature files are played in response to receiving a characteristic indicative of a caller [col. 7 lines 60-65, col. 9 lines 30-32]).

4. **Claim 2** is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of **Shanahan (US 6,496,692 B1)** and **Skorko (US 6,560,466 B1)**, in view of **Donaldson et al. (US 7,272,232 B1)**, and in further view of **Osman (US 6,889,039 B2)**.

Consider **claim 2**, and **as applied to claim 1 above**, the combination of Shanahan and Skorko, as modified by Donaldson et al., clearly shows and discloses the claimed invention except that the audio tracks are edited using voice commands.

In the same field of endeavor, Osman clearly shows and discloses receiving selections from selecting means of the mobile terminal further comprises receiving voice commands identifying the selected part of the audio information (user can assign each acoustic sample with a label or category-label, a priority, a sorting criteria and a name. The method includes those acoustic samples with the same label or category-label can be represented on the display of a memory management terminal and can be re-sorted, played back or deleted. The handling of the recorded acoustic samples can be done by using a keyboard

of the memory management terminal, but also can be done by using the voice commands [col. 1 lines 32-43]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow a user to use voice commands to handle acoustic samples as taught by Osman in the apparatus of Shanahan and Skorko, as modified by Donaldson et al., in order to customize the device to suit the user (Shanahan; abstract).

5. **Claims 5, 6 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Shanahan (US 6,496,692 B1)** in view of **Morishima (US 2003/0083107 A1)**.

Consider **claim 5**, Shanahan clearly shows and discloses mobile terminal comprising: means for receiving audio information (an apparatus that allows user to program user-defined audio information into a programmable electronic device. A user may choose certain information, such as an audio sample of a popular song that is available from source **50** and transferred to programmer **30**. The programmer may be embedded within programmable device **20** [col. 1 lines 55-57, col. 3 lines 19-40, col. 8 lines 60-67]); means for allowing the user to select part of the audio information (a user may customize user-defined information, such as finding an audio track and editing or sampling a portion of the desired segment [fig. 8, fig. 9, col. 9 lines 5-42]); means for attracting the attention of the user by playing the selected part of the audio information, and means for determining that the attention of the user is desired/required, the

determining means being adapted to operate the attracting means (a user may wish to sample a few bars of a popular song and send it along as signature information; a user may program the device so that certain signature files are played in response to receiving a characteristic indicative of a caller [col. 7 lines 60-65, col. 9 lines 30-32]).

However, Shanahan fails to specifically disclose that the sample is selected using a display and a cursor.

In the same field of endeavor, Morishima clearly shows and discloses means comprising a display for showing audio information available for selection and a cursor, the cursor for selecting a part of the displayed audio information (sub-operation unit may include a select key for selecting a ring tone, which is previously registered and a scroll key for changing a type of the ring tone, and the sub-display unit may display the type of the ring tone in accordance with an operation of the scroll key; if the user pushes the first operation key **11** in a state where a cursor (square portion on the display screens **30** to **50** in **FIG. 7**) is positioned to a desired sound or melody, the control unit 14 determines a setting of the ring tone, which is designated by the cursor [paragraphs 19, 23, 56]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow a user select ring tones that are on a display using a cursor as taught by Morishima in the apparatus of Shanahan, in order to customize the device to suit the user (Shanahan; abstract).

Consider **claim 6**, Shanahan, as modified by Morishima, clearly shows and discloses the claimed invention **as applied to claim 5 above**, and in addition, Shanahan further discloses means for providing the information to the user while receiving the information (a user may customize user-defined information (audio track) by performing various editing procedures, and he or she may be given the option to review the piece to ensure it is acceptable [col. 9 lines 25-40]).

Consider **claim 9**, Shanahan, as modified by Morishima, clearly shows and discloses the claimed invention **as applied to claim 5 above**, and in addition, Shanahan further discloses mobile terminal is a mobile telephone, and wherein the attracting step comprises the mobile telephone receiving an incoming telephone call (a user may program the device so that certain signature files are played in response to receiving a characteristic indicative of a caller [col. 7 lines 60-65, col. 9 lines 30-32]).

6. **Claims 7 and 8** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Shanahan (US 6,496,692 B1)** in view of **Morishima (US 2003/0083107 A1)**, and in further view of **Osman (US 6,889,039 B2)**.

Consider **claim 7**, and **as applied to claim 5 above**, Shanahan, as modified by Morishima, clearly shows and discloses the claimed invention except that depressing a button starts selecting a part of the audio track.

In the same field of endeavor, Osman clearly shows and discloses selecting means comprises a push button, a depression of which defines a starting point of the selected part of the audio information (user can assign each acoustic sample with a label or category-label, a priority, a sorting criteria and a name. The method includes those acoustic samples with the same label or category-label can be represented on the display of a memory management terminal and can be re-sorted, played back or deleted. When the user selects the "Select" operation from the "Record" display by pressing the left soft key **8**, "Recording" display **50** will appear. Thereafter the phone starts the recording of a voice memo, and simultaneously an electronic representation of the voice memo is created [col. 1 lines 32-43, col. 4 lines 22-30]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow a user to press a key on the phone to start a recording as taught by Osman in the apparatus of Shanahan, as modified by Morishima, in order to customize the device to suit the user (Shanahan; abstract).

Consider **claim 8**, the combination of Shanahan and Morishima, as modified by Osman, clearly shows and discloses the claimed invention **as applied to claim 7 above**, and in addition, Osman further discloses selecting means comprises a push button, a depression of which defines an ending point of the selected part of the audio information (by pressing the left "Stop" soft key **8** the user has a possibility to stop the present recording [col. 4 lines 30-32]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow a user to press a key on the phone to stop a recording as taught by Osman in the apparatus of Shanahan, as modified by Morishima, in order to customize the device to suit the user (Shanahan; abstract).

7. **Claims 10 and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Shanahan (US 6,496,692 B1)** in view of **Mikkelsen et al. (US 2003/0033214 A1)**.

Consider **claim 10**, Shanahan clearly shows and discloses mobile terminal comprising: means for receiving audio information (a user may choose certain information, such as an audio sample of a popular song that is available from source **50** and transferred to programmer **30**. The programmer may be embedded within programmable device **20** [col. 1 lines 55-57, col. 3 lines 19-40, col. 8 lines 60-67]); providing means for providing the audio information to the user (a user may customize user-defined information (audio track) by performing various editing procedures, and he or she may be given the option to review the piece to ensure it is acceptable [col. 9 lines 25-40]); means operable by the user for selecting part of the audio information (a user may customize user-defined information, such as finding an audio track and editing or sampling a portion of the desired segment [fig. 8, fig. 9, col. 9 lines 5-42]); means for attracting the attention of the user by playing the selected part of the audio information, and means for determining that the attention of the user is desired/required, the

determining means being adapted to operate the attracting means (a user may wish to sample a few bars of a popular song and send it along as signature information; a user may program the device so that certain signature files are played in response to receiving a characteristic indicative of a caller [col. 7 lines 60-65, col. 9 lines 30-32]).

However, Shanahan fails to specifically disclose that the audio tracks are edited using voice commands.

In the same field of endeavor, Mikkelsen et al. clearly show and disclose means is operable to receive voice commands from the user selecting part of the audio information (device allows the user to browse, download, preview, store and view his selections, (using text, voice, or button commands), wherein a fee may be charged by the provider for any or all of these options; allowing the user to sample and download clips for use as alerts in electronic devices [paragraphs 9, 70, 249, 254]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to sample sound/music and store them to use as ring tones as taught by Mikkelsen et al. in the apparatus of Shanahan, in order to customize the device to suit the user (Shanahan; abstract).

Consider **claim 13**, Shanahan, as modified by Mikkelsen et al., clearly shows and discloses the claimed invention **as applied to claim 10 above**, and in addition, Shanahan further discloses mobile terminal is a mobile telephone, and wherein the attracting step comprises the mobile telephone receiving an

incoming telephone call (a user may program the device so that certain signature files are played in response to receiving a characteristic indicative of a caller [col. 7 lines 60-65, col. 9 lines 30-32]).

8. **Claim 11** is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of **Shanahan (US 6,496,692 B1)** and **Mikkelsen et al. (US 2003/0033214 A1)**, in view of **Skorko (US 6,560,466 B1)**, and in further view of **Donaldson et al. (US 7,272,232 B1)**.

Consider **claim 11**, and **as applied to claim 10 above**, Shanahan, as modified by Mikkelsen et al., clearly shows and discloses the claimed invention except that the volume at which the signature file is played is dependent on the proximity of the user to the device.

In the same field of endeavor, Skorko clearly shows and discloses means for attracting the attention of the user alters playback volume in dependence on proximity of the user to the mobile terminal (a wireless communication handset with a sensor and detection circuitry to detect user proximity to the handset; when a user comes into close proximity of the sensor, the detection circuitry signals the control unit to lower the ring volume [abstract, col. 1 lines 55-1]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the proximity of a user to a handset to lower the ring volume as taught by Skorko in the apparatus of Shanahan, as

modified by Mikkelsen et al., in order to customize the device to suit the user (Shanahan; abstract).

However, the combination of Shanahan and Mikkelsen et al., as modified by Skorko, fails to specifically disclose that the volume is adjusted based on the user being provided with audio.

In the same field of endeavor, Donaldson et al. clearly show and disclose volume of the playback depending on the proximity of the user to the mobile terminal, wherein the proximity is determined by whether other audio information is currently being provided to the user (audio sources are sensed and combined with the level of each source subject to adjustment by an attenuator/amplifier; if source A is a high priority source (e.g. a telephone ring or other alert tone) and source B is a lower priority source (e.g. a music program) then the sound management system may lower the volume on source B, combine with source A and output the result.; the sound management system is integrated with a palm sized handheld computer system [col. 1 line 60- col. 2 line 6, col. 2 lines 33-62)], wherein the volume of the ring tone is adjusted accordingly when the device is playing music.)

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to adjust the volume of a telephone ring based on priority and if the device is currently being used to play music as taught by Donaldson et al. in the apparatus of Shanahan and Mikkelsen et al., as

modified by Skorko, in order to customize the device to suit the user (Shanahan; abstract).

9. **Claim 12** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Shanahan (US 6,496,692 B1)**, **Mikkelsen et al. (US 2003/0033214 A1)**, and **Skorko (US 6,560,466 B1)**, in view of **Donaldson et al. (US 7,272,232 B1)**, and in further view of **Patsiokas et al. (US 2004/0266336 A1)**.

Consider **claim 12**, and **as applied to claim 11 above**, the combination of Shanahan and Mikkelsen et al., as modified by Skorko and Donaldson et al., clearly shows and discloses the claimed invention except that the memory of the electronic device is depicted by time duration.

In the same field of endeavor, Patsiokas et al. clearly show and disclose means for depicting how much memory remains for storing audio information, wherein the memory remaining is represented by a time duration (a device could be connected to, or incorporated into, a cellular phone, and download the purchased file over the cellular network; while playing, the display shows all of the standard XM information plus the date (month and day only) and time recorded (hour and minute only), minutes and seconds played and minutes and seconds remaining in memory [paragraphs 59, 64, 76]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have a device display remaining memory in minutes and seconds as taught by Patsiokas et al. in the apparatus of

Shanahan and Mikkelsen et al., as modified by Skorko and Donaldson et al., in order to allow the user to know how many songs or tracks may be recorded in memory.

10. **Claim 15** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Shanahan (US 6,496,692 B1)** in view of **Patsiokas et al. (US 2004/0266336 A1)**.

Consider **claim 15**, Shanahan clearly shows and discloses mobile terminal comprising receiving means for receiving means for receiving audio information (a user may choose certain information, such as an audio sample of a popular song that is available from source **50** and transferred to programmer **30**; a user may select information from the Internet or a remote computer [col. 1 lines 55-57, col. 3 lines 19-40, col. 8 lines 60-67, col. 9 lines 20-22]); storing means for storing the audio information (programmer may include a processor and a programmable memory [col. 4 lines 1-10]); providing the audio information to the user (a user may customize user-defined information (audio track) by performing various editing procedures, and he or she may be given the option to review the piece to ensure it is acceptable [col. 9 lines 25-40]); selecting means operable by the user for selecting part of the audio information, while the audio information is provided to the user, by the providing means (a user may customize user-defined information, such as finding an audio track and editing or sampling a portion of the desired segment [fig. 8, fig. 9, col. 9 lines 5-42]); mobile terminal subsequently attracting the attention of the user by playing the selected

part of the audio information (A user may wish to sample a few bars of a popular song and send it along as signature information. A user may program the device so that certain signature files are played in response to receiving a characteristic indicative of a caller [col. 7 lines 60-65, col. 9 lines 30-32]).

However, Shanahan fails to specifically disclose that the memory of the electronic device is depicted by time.

In the same field of endeavor, Patsiokas et al. clearly show and disclose means for depicting how much memory remains for storing audio information, wherein the memory remaining is represented by a time duration (a device could be connected to, or incorporated into, a cellular phone, and download the purchased file over the cellular network; while playing, the display shows all of the standard XM information plus the date (month and day only) and time recorded (hour and minute only), minutes and seconds played and minutes and seconds remaining in memory [paragraphs 59, 64, 76]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have a device display remaining memory in minutes and seconds as taught by Patsiokas et al. in the apparatus of Shanahan, in order to allow the user to know how many songs or tracks may be recorded in memory.

11. **Claim 16** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Shanahan (US 6,496,692 B1)** in view of **Patsiokas et al. (US 2004/0266336 A1)**, and in further view of **Osman (US 6,889,039 B2)**.

Consider **claim 16**, and **as applied to claim 15 above**, Shanahan, as modified by Patsiokas et al., clearly shows and discloses the claimed invention except that selecting audio has a defined starting point and ending point in time.

In the same field of endeavor, Osman clearly shows and discloses selecting means is defined by a starting point in time and an ending point in time (when the user selects the "Select" operation from the "Record" display by pressing the left soft key **8**, "Recording" display **50** will appear. Thereafter the phone starts the recording of a voice memo, and simultaneously an electronic representation of the voice memo is created, and by pressing the left "Stop" soft key **8** the user has a possibility to stop the present recording, reading on the claimed "," (col. 1 lines 32-43, col. 4 lines 22-32).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow a user to press a key on the phone to start a recording as taught by Osman in the apparatus of Shanahan, as modified by Patsiokas et al., in order to customize the device to suit the user (Shanahan; abstract).

Conclusion

12. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAIME M. HOLLIDAY whose telephone number is (571)272-8618. The examiner can normally be reached on Monday through Friday 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jaime M Holliday/
Examiner, Art Unit 2617

/Charles N. Appiah/
Supervisory Patent Examiner, Art Unit 2617